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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/036,847	12/21/2001	Hubert Elmer	NHL-DOR-105	4055

432 7590 02/18/2004

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EXAMINER

YIP, WINNIE S

ART UNIT	PAPER NUMBER
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3637

DATE MAILED: 02/18/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/036,847

Applicant(s)

ELMER, HUBERT

Examiner

Winnie Yip

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on November 14, 2003.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 9-21 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 9-21 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 14 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

Part II DETAILED ACTION

This office action is in response to applicant's amendment filed on November 14, 2003.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

The substitute specification filed November 14, 2003 has been entered.

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the feature "a plurality of projections on the outside periphery of the cover" (claim 19-20) must be shown or the feature canceled from the claims. According to the drawing and the specification, the cover only includes an encircling projection 120 but not "a plurality of projections" as claimed. No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 9-21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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Regard to claim 9, the claim lacks the term such as “comprising” or “consisting” which causes a confusion of the scope of the claimed invention.

Further, the recited language “is set into a boring of the glass pane” (claim 9, lines 3-4) and “which nut is covered on the outside of the glass pane” (claim 9, line 4) do not appear to consist with the limitation of the body of the claim because the glass pane only functionally recited in the preamble by the phrase “for fastening glass panes”. It is confusing whether applicant wants to claim a clamp fitting it self or a combination of a clamp fitting and the glass panes. **Due to the confusion, the claims 9-21 are being treated as a combination on the merits.**

Regard to claims 16 and 19, the recited feature “the undercut groove” lacks a proper antecedent basis. This term has not been previous defined in claim 9.

Regard to claims 17 and 20, the recited feature “an undercut groove” is confusing whether it is a different undercut groove than the “undercut groove” recited in claim 16. If they are the same, a proper antecedent basis is required.

Claim Rejections - 35 USC § 102

4. Claims 9 and 16-20 stand rejected under 35 U.S.C. 102(e) as being anticipated by Chae et al. (US Patent No. 6,430,894).

Chae et al. disclose a clamp fitting for clamping a double glass pane (100, 102), said clamp fitting comprising first and second clamping elements, wherein the first clamping element being a conical nut (400) which is covered on an outside of the glass pane, and the second clamping element (305) is covered on the opposite side of the glass pane such that the glass pane being clamped between the clamping elements, the second clamping element having spacers

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(305, 306) and a nut (309) for attaching opposite side of the glass pane, the conical nut having a conical surface set into the a boring of the glass pane, the conical nut including a socket (301) which is inserted into the conical nut and includes threaded portion, wherein the threaded portion of the socket providing a plurality of undercut grooves, and a cover (304) being a plastic flat disc providing an elastic portion and having an encircling projection including threaded portions located on the periphery of the cover, the threaded portion of the cover providing a plurality of projections being complementary to the threaded portion of the undercut groove of the conical nut and providing a clip connector for detachably connecting with the cover to the conical nut, and the cover is flush with the outside of the glass pane and detachably covering the boring of the glass pane.

5. Claims 9 and 16-17 stand rejected under 35 U.S.C. 102(b) as being anticipated by German Patent No. 197 27 200.

German reference shows a clamp fitting for clamping a glass pane between two clamping elements which include a first clamping elements being a conical nut (1) having a conical surface (2) set into the a boring (11) of the glass pane for holding one side of the glass pane, and a second clamping element (8) having a washer attached to opposite side of the glass pane, and a bolt and a nut proving attachment arrangement for clamping the glass panel between the clamping elements, the conical nut (1) having a shape of a pot having a central boring (10) located in a bottom of the pot, a head of the bolt being seating on the pot, and a cover (5) being a plastic flat disc and having an encircling projection along the periphery of the cover, the encircling projection being an elastic portion that provides a clip connector to be complementary

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to an undercut groove of the conical nut, and the cover being detachably pressed and adhesive into the pot of conical nut to cover the bore of the glass pan.

Allowable Subject Matter

6. Claims 10-15, and 21 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Response to Amendment

7. In response to applicant's argument that the references to Chae does not have the clip connector comprises an elastic portion as claimed, notice, as discussed set forth above rejection, Chae is considered to have a cover which is formed by plastic such that the threaded portion along the periphery of the cover and the threaded portion of the conical nut together provide a clip connector as claimed, wherein the plastic threaded portion of the cover is broadly considered to provide the elastic portion as claimed. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Therefore, the rejection to Chae appear still proper.

In response to applicant's argument that the German reference '200 does not have the cover being detachably connected with the conical nut by means of a clip connector which has an elastic portion being located on the cover as claimed, again German reference shows the cover (5) being formed of plastic which is considered to have an elastic portion, and the cover (5) having an encircling projection along the periphery of the cover which is complementary with the groove of the conical nut (1). Therefore, the projection of the cover and the groove of the

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conical nut of the German reference are considered to provide the clip connector as claimed.

Therefore, the rejection to the German reference is deemed to be proper.

ACTION IS FINAL

8. Applicant's amendment necessitated the new grounds of rejection. Accordingly, THIS ACTION IS MADE FINAL. See M.P.E.P. ' 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 C.F.R. ' 1.136(a).

A SHORTENED STATUTORY PERIOD FOR RESPONSE TO THIS FINAL ACTION IS SET TO EXPIRE THREE MONTHS FROM THE DATE OF THIS ACTION. IN THE EVENT A FIRST RESPONSE IS FILED WITHIN TWO MONTHS OF THE MAILING DATE OF THIS FINAL ACTION AND THE ADVISORY ACTION IS NOT MAILED UNTIL AFTER THE END OF THE THREE-MONTH SHORTENED STATUTORY PERIOD, THEN THE SHORTENED STATUTORY PERIOD WILL EXPIRE ON THE DATE THE ADVISORY ACTION IS MAILED, AND ANY EXTENSION FEE PURSUANT TO 37 C.F.R. ' 1.136(a) WILL BE CALCULATED FROM THE MAILING DATE OF THE ADVISORY ACTION. IN NO EVENT WILL THE STATUTORY PERIOD FOR RESPONSE EXPIRE LATER THAN SIX MONTHS FROM THE DATE OF THIS FINAL ACTION.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Winnie Yip whose telephone number is 703-308-2491. The examiner can normally be reached on M-F (9:30-6:30), Second Monday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 703-308-2486. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Winnie Yip
Primary Examiner
Art Unit 3637

wsy
February 6, 2004